

# Exhibit P

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF WEST VIRGINIA AT CHARLESTON  
3 -----  
4 IN RE: ETHICON, INC., PELVIC Master File No.  
5 REPAIR SYSTEM PRODUCTS 2:12-MD-02327  
6 LITIGATION MDL 2327  
7 U.S. DISTRICT JUDGE  
8 JOSEPH R. GOODWIN  
9 -----

THIS DOCUMENT RELATES TO THE FOLLOWING  
10 CASES IN WAVE 1 OF MDL 200:  
11 MARTY BABCOCK,  
Plaintiff,  
12 -against- Case No. 2:12-01052  
13 ETHICON, INC., ET AL.,  
14 Defendants.  
15 -----  
16

17 VIDEOTAPED SWORN TESTIMONY conducted of  
18 NICOLE FLEISCHMANN, M.D., pursuant to Notice, on the  
19 23rd day of March 2016, at RIKER, DANZIG, SCHERER,  
20 HYLAND, PERRETTI, LLP, 500 Fifth Avenue, New York, New  
21 York, commencing at 9:00 a.m.; before DANA N.  
22 SREBRENICK, a Certified Court Reporter, a Registered  
23 Realtime Reporter and Notary Public within and for the  
24 State of New York.  
25

1 saying while urgency is not in the adverse reactions,  
2 urgency is a symptom of lower urinary tract obstruction.

3 Q All right. And so we agree --

4 A Yeah.

5 Q So we agree that urgency is not listed as an  
6 adverse reaction in the IFU, correct?

7 MS. KABBASH: Objection.

8 A While the word "urgency" is not listed under  
9 adverse reactions, it's an understanding that lower  
10 urinary tract obstruction -- urinary tract obstruction  
11 can cause urgency.

12 BY MS. O'DELL:

13 Q But Ms. Babcock did not have an obstruction of  
14 her lower urinary tract, true?

15 A No, she didn't.

16 Q Right.

17 Let me ask you to look at that while we're  
18 here. There's no listing of dyspareunia in the adverse  
19 reactions portion of the IFU; is there?

20 A No, there's not.

21 Q The IFU does not include pain as an adverse  
22 reaction either, does it?

23 A Not specifically the word "pain," no.

24 Q Urge incontinent -- excuse me, urge  
25 incontinence is not included in the adverse reaction

1 section of the IFU, true?

2 MS. KABBASH: Objection.

3 A The word "urge incontinence" is not.

4 BY MS. O'DELL:

5 Q Frequency is not included in the adverse  
6 reaction sections of the IFU, true?

7 MS. KABBASH: Objection.

8 A The word "frequency" is not, yes.

9 Q Do you consider an adverse event that occurs  
10 11 percent of the time to be rare?

11 A No.

12 MS. KABBASH: Objection.

13 How long have we been going?

14 THE VIDEOGRAPHER: One hour and seven minutes.

15 MS. O'DELL: Doctor, if you'd like to take a  
16 break, you're welcome to do that.

17 THE WITNESS: Would anybody like that?

18 MS. KABBASH: No, probably take a break before  
19 the two hours is up.

20 THE WITNESS: I'm okay. I can keep going.

21 MS. O'DELL: Well, why don't we go -- if we're  
22 going to take a break, let's go ahead and do that now.

23 MS. KABBASH: You want to do that?

24 MS. O'DELL: Yes.

25 THE VIDEOGRAPHER: This marks the end of tape

1 overactive bladder is reported approximately 11.6  
2 percent of the time in patients who were implanted with  
3 a retropubic sling?

4 A I'm looking for where it states that.

5 Q If you -- oh, I'm sorry -- it's on page 5.

6 A Are we -- on the table.

7 MS. O'DELL: Excuse me, Dana.

8 A I apologize. Okay.

9 BY MS. O'DELL:

10 Q So, Doctor --

11 A Okay. So yes, I'm seeing where it says it  
12 now, yes.

13 Q Would you disagree with that percentage?

14 A No, not necessarily.

15 Q And I think that we've established that a  
16 complication rate of 11 percent in your mind would not  
17 be a rare complication, true?

18 MS. KABBASH: Objection.

19 A Right.

20 Q True?

21 A It's true.

22 Q You probably still have it close at hand, but  
23 I asked you earlier about the IFU that was in effect at  
24 the time that Ms. Babcock was implanted with a TVT, and  
25 I believe we established that dyspareunia was not listed

1 as an adverse reaction in the IFU; do you remember that?

2 A Yes.

3 MS. KABBASH: Objection.

4 BY MS. O'DELL:

5 Q And you state on page 26 of -- of your report,  
6 if you'll turn to 26 at the top of the page.

7 MS. KABBASH: You're talking about the Babcock  
8 report, right? Or the Babcock-specific report?

9 MS. O'DELL: Oh, yeah, yeah -- I'm not going  
10 to ask questions about the general report.

11 MS. KABBASH: Okay.

12 MS. O'DELL: I understand.

13 Q So page 26, do you see at the top of the  
14 page --

15 A Yes.

16 Q -- first line.

17 A Uh-huh.

18 Q "The TVT IFU adequately warns of the risk of  
19 dyspareunia."

20 A Uh-huh.

21 Q What do you base that statement on?

22 A Well, because it warns about mesh exposure,  
23 which is really the main cause of dyspareunia, and if --  
24 if there's going to be dyspareunia with the TVT, it's  
25 usually in association with the mesh exposure.

1 Q And so is it your opinion that nerve-related  
2 pain is -- let me strike that and start again.

3 Okay, let me just make sure I'm straight.  
4 You're saying the IFU adequately warns of dyspareunia  
5 because it mentions exposure?

6 A Yes.

7 Q Anything else?

8 A No.

9 Q Dr. Fleischmann, at the bottom of the page,  
10 you go through a number of statements that relate to  
11 pain with intercourse related to posterior repairs,  
12 posterior colporrhaphies.

13 What relevance do those statements have to  
14 your opinions in the Babcock matter?

15 A Well, she had a perineorrhaphy.

16 Q And you're putting that -- that perineoplasty  
17 in the same category -- or is in your mind the  
18 perineoplasty the same category as a posterior  
19 colporrhaphy?

20 A No, they're two different operations. I do  
21 talk about perineorrhaphy or perineoplasty. That's the  
22 same term, really. They are two different operations.  
23 A posterior repair is slightly a deeper repair than a  
24 perineorrhaphy.

25 Q I have never done one, but I understand that.